

## Message Text

LIMITED OFFICIAL USE

PAGE 01 NEW DE 05444 072032Z  
ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10  
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
/064 W

-----045019 081039Z /11

R 071255Z APR 78  
FM AMEMBASSY NEW DELHI  
TO SECSTATE WASHDC 767  
INFO AMCONSUL BOMBAY  
AMCONSUL CALCUTTA  
AMCONSUL MADRAS  
AMEMBASSY COLOMBO  
AMEMBASSY DACCA  
AMEMBASSY ISLAMABAD  
AMEMBASSY KABUL  
AMEMBASSY KATHMANDU  
CINCPAC

LIMITED OFFICIAL USE NEW DELHI 5444

CINCPAC FOR POLAD

E.O. 11652: N/A  
TAGS: PINT, IN  
SUBJECT: MRS. GANDHI ORDERED TO APPEAR IN COURT FOR DEFYING  
SHAH COMMISSION

REF: NEW DELHI 578, 1114

1. THE CHIEF METROPOLITAN MAGISTRATE OF DELHI HAS  
ORDERED MRS. GANDHI TO APPEAR IN PERSON IN HIS COURT  
ON APRIL 18 IN CONNECTION WITH CHARGES FILED AGAINST HER  
FOR REFUSING TO TESTIFY BEFORE THE SHAH COMMISSION  
OF INQUIRY (REFTELS). PRANAB MAKHERJEE, FORMER MINISTER  
OF STATE FOR BANKING IN HER GOVERNMENT, WAS ALSO  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 NEW DE 05444 072032Z

ORDERED TO APPEAR IN COURT. MRS. GANDHI AND MUKHERJEE  
WERE CHARGED UNDER SECTIONS 178 AND 179 OF THE INDIAN  
PENAL CODE FOR REFUSING TO TAKE AN OATH AND FOR  
REFUSING TO TESTIFY BEFORE THE COMMISSION IN JANUARY.  
ON SEVERAL OCCASIONS IN THE PAST FEW WEEKS, THEY HAD  
BEEN GRANTED POSTPONEMENTS OF THE JUDICIAL PROCEEDINGS  
ON THE GROUNDS OF MRS. GANDHI'S INVOLVEMENT IN THE

STATE ASSEMBLY AND KARNAL ELECTION CAMPAIGNS. HOWEVER, ON APRIL 6 THE DELHI CHIEF METROPOLITAN MAGISTRATE REJECTED THE REQUEST OF THEIR LAWYERS TO FURTHER POSTPONE THE HEARINGS UNTIL AFTER MAY 8 AND DIRECTED THEM TO APPEAR IN HIS COURT ON APRIL 18. (MAXIMUM PENALTY UNDER SECTIONS 178 AND 179 OF THE IPC IS SIX MONTHS IMPRISONMENT AND/OR ONE THOUSAND RUPEES FINE.)

2. IN A RELATED DEVELOPMENT, A CASE HAS BEEN FILED UNDER SECTIONS 178 AND 179 IPC AGAINST DHIRENDRA BRAHMACHARI FOR SIMILARLY REFUSING TO TAKE AN OATH AND TESTIFY BEFORE THE SHAH COMMISSION. BRAHMACHARI, A YOGA TEACHER CLOSELY ASSOCIATED WITH SANJAY GANDHI WHO HAS BEEN IMPLICATED IN SEVERAL QUESTIONABLE BUSINESS DEALS DURING THE EMERGENCY, HAS BEEN SUMMONED TO APPEAR BEFORE THE CHIEF METROPOLITAN MAGISTRATE ON APRIL 22.

3. COMMENT: OUR SOURCES TELL US THAT THE GOVERNMENT APPEARS TO HAVE A SOLID CASE AGAINST THE FORMER PRIME MINISTER FOR HER DEFIANCE OF THE SHAH COMMISSION. SHOULD SHE BE FOUND GUILTY, SHE COULD APPEAL THE VERDICT TO HIGHER COURTS AND DRAW OUT THE LEGAL PROCEEDINGS FOR SEVERAL MONTHS IN THE TIME-HONORED TRADITION OF THE INDIAN JUDICIAL SYSTEM. WHATEVER THE FINAL JUDGMENT, HOWEVER, IT IS GENERALLY RECOGNIZED HERE THAT THE GOVERNMENT'S CASE AGAINST MRS. GANDHI IN THIS INSTANCE IS A DISTINCTLY MINOR LEAGUE ONE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 NEW DE 05444 072032Z

BASED ESSENTIALLY ON TECHNICAL GROUNDS. THE FINAL JUDICIAL DECISION DOES NOT ADDRESS THE REAL GROUNDS ON WHICH THE GOVERNMENT HOPES TO PROSECUTE HER: HER ROLE IN THE "CRIMES " AND "EXCESSES" OF THE EMERGENCY ITSELF. THE SHAH COMMISSION SUBMITTED ITS INTERIM REPORT TO THE GOI SEVERAL WEEKS AGO (SEE NEW DELHI 4044), BUT THE JANATA HAS DELAYED MAKING THESE FINDINGS PUBLIC. IT IS UNLIKELY THAT THE GOVERNMENT WILL CONSIDER DOING SO UNTIL IT BELIEVES THAT IT CAN DEVELOP A WATER-TIGHT PROSECUTABLE CASE AGAINST HER UNDER THE INDIAN PENAL CODE BASED ON THE COMMISSION'S FINDINGS AND CONCLUSIONS. A JOURNALIST WHO HAS BEEN COVERING THE SHAH COMMISSION CLOSELY TELLS US THAT THE JANATA MAY HAVE SOLID GROUNDS FOR CRIMINAL PROSECUTION IN REGARD TO THE HARASSMENT OF FOUR INDUSTRIES MINISTRY OFFICIALS WHO WERE INVESTIGATING THE MARUTI SCANDAL IN 1975. THIS IS APPARENTLY ONE OF THE FEW INSTANCES IN WHICH THE COMMISSION HAS FOUND EVIDENCE THAT AUTHORITY FOR ABUSE OF OFFICIAL POWER CAN BE DIRECTLY TRACED TO THE FORMER PRIME MINISTER HERSELF. WE UNDERSTAND THAT IN MOST OTHER CASES HEARD BEFORE THE SHAH COMMISSION, THE RESPONSIBILITY FOR AN ALLEGED "EXCESS" CAN BE TRACED ONLY AS FAR AS A MEMBER OF MRS. GANDHI'S INNER CIRCLE, SUCH AS FORMER ADDITIONAL PRIVATE

SECRETARY R.K. DHAWAN.  
GOHEEN

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** COURT PROCEEDINGS, POLITICAL LEADERS, ELECTIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 07 apr 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978NEWDE05444  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780152-0447  
**Format:** TEL  
**From:** NEW DELHI  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t19780481/aaaacqpq.tel  
**Line Count:** 118  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** ae97d4b4-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION NEA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 78 NEW DELHI 578  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3041547  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** MRS. GANDHI ORDERED TO APPEAR IN COURT FOR DEFYING SHAH COMMISSION  
**TAGS:** PINT, IN, (GANDHI, INDIRA)  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/ae97d4b4-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014